Previous references.

1905 - 6

File No. 3

Later references. (Banking)

Serial Nos.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 17, 26, 28 & 37

Part B. for Agy

SUBJECT.

Sale of Lands mortgaged to Agricultural Banks under Regulation II of 1903.

17. From the Dy Comsnr of the Hassan Dist. reqsts orders whether the sale of certain block of the Godewar Estate under Regulation II of 1901 the realization of the loan, made by the Agrl Bank, would convey a clear title free from encumbrances to the purchaser and if so, to that a declaration to that effect may be in the notification for sale.

R. S. 58

26. To the Registrar, Chief Court, Mysore
No: 2454-85 of 13/3/06
Requests him to be good enough to send the Law reports referred to on the page 22 of the notes.

28. From Customs Office. No: 6772/339 of 14/3/06
Forwards the Law Reports asked for and requests their early return.

37. To the Dy Commr of the Hassan Dt
& the Dy Commissioners of other Districts.
No: 7636-43 of the 10/5/06
Observes that there is a difference between the Sale of lands for arrears of land revenue due thereon and that held for any other demand to be recoverable as an arrear of land revenue, & that in respect of Sales under the Regn II of 1903 Govt could sell the limited right, title & interest which the defaulter may have therein.

To the Registrar, Chief Court of Mysore
No: H 7776 of the 11/5/06.
JS 3-05.
Returns certain Law reports Lent with this no: 6772/339. of 14/3/1906.

G. R. S. 31] 1905-6

GENERAL AND REVENUE SECRETARIAT.

(Banking)

NOTES.

File No. 3-05

FILE HEADING.

Management of the Estates mortgaged to the late Agricultural Bank at Sakleshpur.

From

The Dy. C. of Hassan

No. 59 /Af.B Dated 28.12.05 Received 2.1.06

Diary No. 2760. | Enclos. -- | Spare Copies. -- | Serial No. 17

BRIEF ABSTRACT OF LETTER.

Solicits orders whether the sale, as directed, of Melhalli & other blocks of the Kadenvar Estate, under Reg.ⁿ II of 1903, for the realization of the loan made to the Agrl. Bank, would convey a clear title, free of all encumbrances, to the purchaser & if so, requests that a declaration to that effect may be embodied in the notification for sale.

NOTES AND ORDERS.

6994-68/15.4.05.
7457-98/1905.

Melhalli & two other blocks of the Kadenvar Estate, under Govt. management, were ordered to be sold on the ground that they would fetch higher prices, if sold immediately; the sales were directed to take place under the rules for the realization of land revenue

→

NOTES—First sheet.

MGCPB -30,000—17.2.05.

Serial No.

and the procedure prescribed therefor was directed to be adopted for these sales also.

2) In his letter, No: 160 of the 15-11-05, the Dy: Comr: pointed out that these blocks were also in arears to govt in respect of land revenue for 1905-6, & that it becomes due in April 1906, & solicited orders whether the blocks could be sold merely for arears of revenue.

3) In his opinion, a sale for the realization of the loan due by the defaulters would convey to the purchaser merely the right, title & interest of the defaulters in the blocks sold by govt; and, that a sale for the realization of the arears of land revenue would convey to the purchaser a clear title free of all encumbrances. He therefore inclined to think that a sale of the blocks in question for arrears of land revenue would induce intending bidders to bid higher in the sale and he pointed out also that, in case these are decided to be sold for arears of revenue alone, the revenue falls due in April 1906, that a demand notice should be served, that the blocks should be declared forfeited, &c: after that date. He now writes that, if however these blocks should

MGCRB—20,000—1-11-04.

Serial

should be sold merely for the realization of the loan, under Regulation II 1903, as has been already directed by Govt; such a sale should be made to give to the purchaser a clear title free of all encumbrances and that a declaration to that effect may be embodied in the Notification for Sale.

Z.

4) It was in April 1905 that the Melhalli block was ordered to be sold immediately as it would, if done so, fetch its price. In September 1905, the other two blocks were ordered to be sold. In Nov. the D.C. reported that these blocks were in arrears ~~for land to Govt~~ in respect of land Revenue, & in Dec. he was pointed out that the sale had to be made, under Regln II of 1903, for the realization of the loan. The only point at issue is whether such a sale would convey to the purchasers a clear title free of all encumbrances. ~~All the papers to here and that the point, & one, was decided to~~ as to this is a Revenue matter, Board may be consulted. I may be consulted. Necessary alterations will have to be made in the draft Notification for sale submitted by the Dy. Comr, after the point at issue is decided.

Submitted for orders.
K.S 4.1.06.

* Vide para 3 of Section 193 & 54 of the Land Revenue Code.
* This only happens when the assessment and the appeal thereon is an appeal against the decision of the Collector.
@ This assessment is not in addition to any assessment of land

NOTE—Contn. sheet

MGCPB—50,000—17-2-05

General and Revenue Secretariat.

Banking File No. 3 of 1905-06

Serial No.

The Deputy Commissioner thinks that sufficient high bids cannot be expected at the sale of the lands in question, unless an absolute title free from every sort of prior encumbrance is guaranteed as in the case of sale for arrears of land revenue. He apprehends that any other sale of lands for the recovery of amounts, [illegible] recoverable as land revenue, would not give this title and wants, should the government, however, decide it does give such a title, that a declaration to that effect might be embodied in the sale proclamation. This is impossible as the sale in question is not a sale for arrears of land revenue and cannot therefore give an absolutely free title to the sale purchaser. The amendment

Note—Contn. sheet.

Serial No.

of the declaration asked for would be indirectly extending section 54 of the Land Revenue Code to agricultural loans and would not be valid in law. The present proclamation therefore must stand as it is.

The Deputy Commissioner also wants instructions as to what to do with the request of the Indian brothers, who, for once, are all agreed to pray for a stay of sale

MS
8.1.06

submit Secy's orders

V
8-1-06

for a draft

C
8.1.1906

V

Submitted with a draft as per Orders of the Secy.

K.S.
10.1.06.

MS

Please submit the draft to Asst. Secy. Rev. Branch for favour of remarks if any.

V
10.1.06

The Dy Commr in his letter points out himself that the sale of the estate for the

NOTE—Contn. sheet.

MGCPB—50,000—17-2 05

Serial No.

recovery of the instalments due to the Bank cannot be absolutely free from all encumbrances like a sale for the arrears of revenue due on the S. Nos comprising the estate and a declaration to that effect that the sale is free from all encumbrances mentioned in the sale proclamation cannot confer on it incidents which it has not by virtue of the provisions of the Land Rev Code. Only the right title & interest of those who are members of the Bank & those shares they could legally hold can be sold. From the Dy Commr's letter it seems that many of the brothers apparently repudiate their liability for the debt due to the Bank & insist on a partition. Under these circumstances it seems to be doubtful whether the sale of the properties will fetch any bid. I have discussed the points in the note in the file flagged A

B
12/1/06

Draft worked out by
A
12-1-06

Seen & by the Dy. Secy
12-1-06

Note—Contn. sheet.

MGCPB—20,000—1-11-04.

Look over draft. C 12-1-06. Y. 12/1

Serial No.

I am unable to accept the view ~~that~~ embodied in the draft, as regards the distinction between arrears of land revenue and other demands declared to be re-coverable as such. Before committing myself to that view, I should like to see the authorities on which it is based. My own ~~impression~~ is that both kinds of demands ~~can be~~ equally enforced ~~in preference~~ in precedence of all subsisting private interests; but the subject is a very important, and withal very difficult one, and much further and fuller research on my part is necessary before I can put forward any opinion entitled to consideration. In such research I should require much more time than I have just now; and I beg that the draft may be disposed of without reference to me

A.G. 17/1-06.

17-1-06 Being an important point, it is essential to secure your valued opinion, & I therefore beg you to give it on consultation with Mr De Souza Hon'ble Mr. Joseph wants an answer daily. 17.1.1906

A Till after events ~~of~~ the completion of my work on the J.S.'s Office revision Committee - K

17-1-06

Serial No.

Recd 20-1-06.

As this is primarily a revenue question, I shall be glad to have the benefit of Mr D'Souza's views before I form and express mine.

I have already pointed out in my note to the Secretary ~~(illegible)~~ why the question requires deliberate consideration.

M. 20.1.06

Please put up the references & the authorities I have already asked for in a routine note. As the matter is important kindly let them, I have given personal instructions may be required to attend to it.

26/1/06. Submitted with references. B. 26/1/06

Recd 26/1/06.

The question for consideration is whether the priority conferred by s. 143 of the L.R.C over any private debt. demand or claim is confined merely to arrears of land revenue falling under s. 54 or extends also to all Govt demands recoverable under the provisions of Ch. XV in all the cases which are exhaustively enumerated in ss 153 & 154 of the L.R.C. by

NOTE.—Contn. sheet.

Serial No.

impression has always been that the paramount right conferred with regard to first demand was intended only to apply to cases where arrears of land revenue properly so called i.e. those which were required by law or custom to be paid to Govt by virtue of the sovereign right of Govt to all land for the land as described in V. 5&6 L.R.C and not to other claims which were merely declared to be recoverable as arrears of land revenue so as to bar the operation of the ordinary law and oust the jurisdiction of the civil courts and I have expressed this view above. I find that this is the generally recognized view and which has been put forth by Govt in several of their orders. It has also the authority of the decided cases of the several High Courts which I shall refer to, later on.

But none of these orders discuss the reasons for the decision, or attempt to account for section 143. [illegible]

In Govt Proc. No. 1567-8— Pet. 12 of 26th July 1899 it has been laid down that Land-rent which is declared to be recoverable

:—Contn. sheet!

Serial No.

as an arrear of land revenue in case of default of payment does not by virtue of S. 143 of 1903 Act any such priority as to be construed as a paramount charge to the exclusion of prior incumbrances upon such property. In a similar case this view has again been reiterated. Please see also Govt Order No. 92-S-1 of 30.03.03 dated 17th July 03 which is with regard to the recovery of an advance made for the construction of an irrigation well & makes a similar distinction.

Running now to the decided cases it will be found that the leading case on the point is that given in 7 Mad 434. It turns upon the interpretation of analogous provisions of the Revenue Recovery Act II of 1864 and lays down that the expression in like manner for the recovery of arrears of land revenue indicates only the procedure to be followed and cannot operate to deprive

The language of S. 193 of our case is different. Ed

Serial No.

preexisting encumbrances as in the case of arrears of public revenue of which land is the first security by statutory declaration. Those sections 5 had 572 16 had 230 & 18 had 420 of the Act has been observed in the last case to hold that a sale of land for an arrear of abkari ~~revenue~~ rent would have the effect of discharging all prior encumbrances would open a wide door to fraud on bona fide mortgagees". Similar view have been expressed by the Calcutta & Allahabad High Courts in 22 All. 321 & 31 Cal

not discharging but preserving in favour of the Govt. demand. K

The reason why I have cited these authorities in detail is that although it will be exceedingly inequitable to hold any other view yet a literal interpretation of the provisions of the D.A.R. Act together with a ruling of the High Court of Bombay on the construction of similar provisions may possibly

MGCPB—20,000—1-11-04.

Serial No.

persons are of this view and it will then be a matter for consideration whether the law should be left in doubt. The priority given to land revenue due in respect of any holding is both intelligible and defensible on ground of equity and good conscience, being one that enters into any dealing which is likely to affect the holding in respect of which annual payment of revenue is required to be made. Such person will be presumed to have imported it as a provision into his contract that the title of the person with whom he covenants is dependent upon the punctual payment of revenue. But the same presumption cannot be made in respect of other past demands arising out of a distinct contract or liability incurred subsequently to the transaction affecting the property of the person becoming liable which is sought to be overridden on the ground that it was entered into with a private person and cannot bind the Govt. If this extreme view is accepted it will make all transactions affecting real estate entered into by private persons heavily

Serial No.

uncertain and dangerous will have very serious consequences.

S. 163 however is wide enough in its terms to apply to cases other than those in which the demand is land revenue constituted as a paramount charge on the land. S. 163 is to be read as subject to the limitations prescribed by S. 157. The effect of these 2 sections taken together has been described in the letter of Sir K. Sesadri Iyer printed on P. 186 of the printed selections herewith put up. He says that S. 163 applies to 2 classes of cases (a) cases falling under S. 54 namely demand against a land for arrears due on it and (b) other portdemands recoverable from any land whatsoever in the holder thereof. As regards cases falling under (a) the priority of the portdemand is absolute and not limited by time and cases falling under (b) the priority of the portdemand is justly limited to the current year the first—

Hey G

G.R.S. 12]
General and Revenue Secretariat.

B File No. 3 of 1905

Serial No.

part of the proposition is unobjectionable but the latter part is open to the very obvious objection as to how s. 157 is to be applied to those cases where the demand is not one recurring annually and why such demands should be denied the benefit of a special provision merely on this account. A ~~somewhat similar~~ view is somewhat similar to that of Sir R. Seshagiri Aiyar put forward in the case reported in 15 Bom 67. The whole English is there made to turn on the procedure adopted for the recovery of the demand. S. 156 specifies the various modes in which arrears of land revenue may be recovered and one of the modes is forfeiture of the occupancy or alienated holding in respect of which the arrear is due under s. 157 and by sale of the defaulter's immovable property under s. 161. The Judges of the Bombay High Court seem to think that if the

Recurrence year after year is not a necessary condition of the applicability of this section. If a loan, contribution, or other demand, is recoverable once for all, instead of in instalments, it pertains obviously to the revenue year in which its repayment becomes due. Its recovery is governed by s. 157 according as that year is the "current" year or a "former" year.

MGCPB—20,000—1-11-04.

Serial No.

charge is leviable in respect of a particular land, it may be forfeited to G. in which case the procedure enjoined by s. 54 (I am omitting the sections of the Land Revenue Code) accrues in respect of that also. The case is however distinguishable on the ground that the charge therein being one for the repair of boundary-marks is one attached to the possession of the land itself by virtue of the ordinary law and not one created by special contract as a taccavi advance or an instalment due to an agricultural Bank and the presumption which I have pointed out above as arising in favour of land-revenue may well be made with regard to it. 6 (6) of s. 15 implies that the amount to be recovered is one due in respect of the holding if forfeited and taken with s. 54 it implies that the procedure prescribed therein is to be adopted only in respect of land revenue due on account

in sorry I do not see the cogency of the distinction drawn. We are dealing here with the effect of express statutory provisions; and it is hardly a legitimate mode of interpretation to get round them by way of distinctions or presumptions. While the law however is (which the High Court of Bombay do not allude to). If

MGCPB—20,000—1-11-04.

Serial No.

of the land ~~Act~~ by the landholder and not on any other ground. It may also be pointed out that if S. 163 was intended to confer precedence over all past demands irrespective of their nature s. 164 would be superogatory, as it would be unnecessary to make special provision for anything included in a general case. As it is, it seems to me dangerous to say this with great diffidence S. 163 is merely calculated to introduce a great deal of confusion & does not provide for any case not already provided for in any other case.

I may also refer to S. 7 of the Land Improvement Loans Regn of 1890 by which all interests which existed before the date of the order granting the loan are expressly saved as indicating the obvious footing of first in these matters

Dy Secretary 27/1/06.

It may also be added that if the order in question is to be given to S. 163 it will practically give to all past claims precedence even over higher rights than those allowed to land revenue proper so called as in their case the paramount right is confined to the holding itself while S. 163 makes it affect to all the property of the debtor.

This saving is by means of an express proviso. The necessity for the express saving shows that, without it, prior interests would not be saved; & hence this is really an argument in support of the opposite view to that taken in this note. K

Ban Rep 3 of 05

I admit there is much force in the equitable considerations urged by Mr.D'Souza in favor of the current view of the question. But those who deal with legal enactments have a primary duty to perform, and that is to give to each unambiguous provision of the law its due and full effect irrespective of personal opinions as to its expediency.

2 Now, Chapter XI of the Mysore Land Revenue Code deals with "the realisation of the land revenue and other Government demands." Section 193 directs that the provisions of that Chapter shall be applied for the levy, not only of sums due on account of the land revenue, but also of sums declared by law to be leviable as a revenue demand or land revenue arrear. No diferentiation is made between the two kinds of State demands as regards the mode of their recovery, but all are declared leviable alike under the same provisions. It might possibly be different if the law had said (as it sometimes does) that the one kind of demand was recoverable "in the same manner as far as practicable" as the other, or to a like effect. (It is the use of such a form of words in the Madras Rent Recovery Act, II of 1864, section 52, that is made so much of in the leading case reported in I.L.R.VII Mad. p.434).

3 The particular provision of Chapter XI on which I lay most stress is that contained in section 143. This section is most unqualified and unambiguous in its terms. It enacts that "the claim

of

Bankip 3 9-05

of Government to any moneys recoverable under the provisions of this Chapter" (by which it is undoubtedly meant to include not only land revenue demands proper, but also all other demands recoverable as such) "shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment decree, execution or attachment, or otherwise howsoever, against any land or the holder thereof." I doubt if any thing could be plainer or more direct. It was this that I chiefly had in mind when I ventured to suggest that both kinds of demands could be equally enforced in precedance of all subsisting private interests. (vide.my note of 19-1-06.) I see that this view is not without support from high authority, viz. the Bombay High Court and the late Dewan Sir Sheshadri Iyer.

4 Mr. D'Souza, endeavours to distinguish the Bombay decision on the ground that the charge ~~invol~~ involved was one for the repair of boundary marks and hence attached to the land itself. All this may be so; but the fact remains that the liability of such a charge to be recovered by forfeiture etc, arises, not because it is itself a "land revenue arrear" under the Code, but because, though not a land revenue arrear, it is yet made recoverable by law under the same provisions. The Bombay High Court do not, as far as I can see, postulate any such distinction as that drawn by Mr.D'Souza, but proceed upon broad considerations of the purport and effect of the express Statutory enactments in

the

Banking 3 of 08

the Code. This, I should think, is the only satisfactory mode of interpreting ~~laws~~ them; and if it leads us in any instance to consequences which we think inequitable, let us by all means move the legislature to amend the law, but let us not create confusion by cutting ourselves loose from the legitimate rules of interpretation.

5 In the next place, the operation of section 143 is sought to be limited with reference to sections 54 and 157. As regards section 157, which differentiates between arrears which accrue due in the current revenue year, and those which accrued due in former years, I do not myself see much difficulty in applying it; any Government demand that is in arrear, whether it be a loan, contribution or any other sum, must have fallen due in some particular year, and is in that sense the arrear of or demand for that year. If a loan or contribution is payable in annual instalments, then, of course, each respective instalment is the demand for the year to which it is attached.

Next as regards section 54. It is true enough that this section and section 143 cover to some extent the same ground. But section 54 is a formal enunciation of the paramount nature of the land revenue charge, and such a statement is perfectly in place in a series of sections dealing with the nature, extent and limits of the rights and liabilities connected with land. Section 143, on the other hand, appears appropriately in the Chapter on the realisation of State demands of all kinds, and deals with the not infrequent cases of

Banking 3 9 08

conflict between such demands and private claims. Hence I cannot quite admit that section 54 could, in view of section 143, be supererogatory.

7 I have made a few marginal comments on points raised by Mr.D'Souza, which I could not conveniently touch on in the body of my note.

8. It will be seen from the position that I take that, so long as sections 143 and 193 of the Land Revenue Code remain as they are, it will be most difficult to take any other view than that which I have ventured to express. Whether the consequences following therefrom are desirable or not is a question which I have not felt called upon to consider. If Government think they are undesirable, a suitable amendment of the law is, no doubt, the obvious remedy.

Lee 7

McCandless Sharpe
3-2-06.

Brought to Fin on the copy of
U. the 6th !! RK
3-2-06.

Submitted to the Dewan Saheb.

The power given by regulation
No II of 1903 to the Executive Offrs
of Govt to levy ~~the~~ ~~arrears~~
the loans made to Agricultural
banks by as arrears of land
revenue, & merely gives them
authority to adopt the summary

Serial No.

process of themselves attaching & selling the property of the defaulters without going to Courts of Law. It does not, I think, give them power to sell the property free of legal encumbrances existing thereon. Such is the case of the lands sold for the arrears of assessment due on other lands, only the right title & interest of the defaulters are sold, but not the entire land free of encumbrances. It is only the land on which assessment is due that is sold absolutely free from encumbrances. I therefore humbly think that the draft put up may be passed.

7. 2. 1906.

11142
7.2.06

11142
7-2-06

Mr Dewan desires that the authorities referred to in Mr D'Souza's Note may be thereby put up

Dewan's Clerk
6/3/06

To Mr D'Souza

8.3.1906

Vide Sec 167 of the A.L.C

NOTE.—Contn. sheet

MGCPB—50,000—17-2-05

Serial No.

The following authorities are put up.

I.L.R. 7 Mad: 1
" 25 Mad: 1
" 22 All: 1
" 15 Bom: 1

26 Mad, 28 Mad & 31 Cal are not available in the office.

9/3/06

26 To the Registrar - Chief Court in Mysore
No. R 5485/13-3-06

Requests him be good enough to send the law reports above referred to.

28 From the Registrar - Chief Court in Mysore
No. 6772/339 of 14-3-06

Forwards the law reports asked for and requests that the same may be returned at a very early date.

Submitted with Seven Vols. of Law Reports called for by the Secretary with the Dewan's memo.

15.3.06

1905/1613/06 15/3/06.

12/19

16.3.1906

May it please your Excellency to have the enclosed papers in connection with the proposed amendments of the Code of Civil Procedure sent to the Committee.

26.11.06

To the Committee
28.3.1906

P.T.O.

NOTE—Continued on page

G.R.S. 12]

General and Revenue Secretariat.

File No. 3 of 1905/1906

Serial No.

Consult the Govt Advocate please
unless there is any reason for not doing
so — Sd/- 13 Apr 06

Submitted the demand slip
in reply to his order above
& 14.4.1905.

The Dy Regt may issue
Sd/- 1/5/1906

Issue
Sd
3.5.1906

37 Do the Dy Collr of Hassan & the Dy Collr of
other Dts. nos. H: 7636-43 of the 10.5.06.

Observe that there is a difference between
the sale of lands for the arrears of land Rev: due
thereon & that held for any other demand to
be recovrable as an arrear of land Rev: & that
in respect of sales under the Regln, govt:
could sell the limited right, title & interest
which the defaulter may have thereon.

Mtn. sheet

GPB—50,000—23 10-05

G.R.S. 12J
General and Revenue
Secretariat.

In reference on the

Banking File No. 5 of 1905

Serial No.

To the Dy. Commissioner - Hapsan District
No. H 6703 / B.2-05-19 of 11-4-06

Forwards with reference to Comptroller's letter No. 5791/863 of 2-4-06, copy of this office docket No. H 6702 / B.2-05-19 of 11-4-06 requesting to be informed early the date on which the winding up of the Lank Agricultural Bank at Chikmopalur began and requests that similar information in regard to Agricultural Bank at Lakkespur may be furnished.

From the Dy. Commissioner - Hapsan District
No. 109/B.B. of 13-4-06

States that the Lakkespur Agricultural Bank was wound up with effect from the 18th April 1905 and that this fact was has already been intimated to the Comptroller.

Note—Contn. sheet

GPB—50,000—23.10-05

D. 2760

File 2-1-06 1905-06. Xli 17

From P. R. W. Wetherall Esquire
Deputy Commissioner
Hassan District

To
B. K. Venkatavaradiengar Esqr.
Secretary to the Government
of His Highness the Maharaja
of Mysore, General and
Revenue Departments
Bangalore.

Dated 29th December 1905

Despatched 30th

Received

General No. 59

No. AgB.

Enclosure No Xii C

Subject

Requesting return
of the draft sale Notification
and soliciting instructions
of Govt on two points

1905-06

No: 57/Agr3

Deputy Commissioner's office
Hassan District

Dated 29th December 1905.

From,

P. R. W. Wetherall Esquire
Deputy Commissioner
Hassan District

To,

B. K. Venkataraadiengar Esquire
Secretary to the Government
of His Highness the Maharaja
of Mysore, General and
Revenue Departments
Bangalore.

Sir,

With reference to Government proceedings No: Fl 3608/B. 3-05-12 Dated 7th December 1905 directing that the sale of Melkalli and two other blocks of the Eldewar Estate should be held under the provisions of Regulation II of 1903, I have the honour to request the favour of the return of the

Draft

draft sale notification submitted
with this office letter No: 40/Agts dated
15th November 1905 and to again urge
on the consideration of Government
that if the sale of the above mentioned
blocks be held for the recovery
of merely the amount of the loan
due by the Udevar Brothers, such
sale would not be an outright
sale which would convey clear
title to the purchaser from Govern-
ment but would be only a
sale of the right title and interest
of the Udevar brothers in the said
lands (Vide latter portion of para 1
of my letter No: 40/Agts dated 15th November
1905). This kind of sale would deter
intending bidders to bid higher
in the auction sale with a probable
result that a good purchase value
for the lands would not be
obtained. If however Government
are opinion that the application
of the provisions of the Regulation II
of 1903 would give the sale of these

lands the character of an outright sale free from all encumbrances, permission of Government is solicited to embody a declaration to that effect in the sale notification which would remove all uncertainties.

2. Moreover, the elder members of Eldewar family Basnigowda and Dyavappagowda who have executed a fresh Agreement = Mortgage Bond in favour of Government in pursuance of instructions of Government conveyed in para 2 of their proceedings No: $\frac{\text{Fl } 3130\text{-}1}{\text{B-}3\text{-}05}$ dated 15th November 1905, have petitioned to this office protesting against the intended sale of the said lands, and the two younger members viz Amagowda and Hirigowda, who have declined to execute such bond in favour of Government, have been urging for the partition of their Estates

which

which can only be effected by a Civil Court (Vide para 1 of my letter No: 54/Agts dated 13th December 1905)

3. In the above circumstances I request that you will be so good as to early obtain definite instructions of Government on the two points raised above.

I have the honour to be,
Sir,
Your most obedient Servant

D.H.V. Wetherall
Deputy Commissioner
Hassan District

G.R.S. 26]

File No. 30/05

Serial No 26

Diary No. of letter replied to 2760

No. 57185

General and Rev. Secretariat
(Judicial)
, *the* 13-3-1906.

To

The Registrar
High Court in Madras

Date of issue do

Signed by Mr Subramania Chetty

Has the honor to request that a
~~to be~~ good enough to send the
Provincially rded Law reports for
~~Bombay Allahabad~~ for reference

26 Madras
28 do
31 Calcutta

S. J.
9-3-1906
for Secretary
21
9-3-06

over.

SUBJECT.

Issued
12/3

(General Serial No. 30.)

D3763

From The Registrar of the Chief Court of Mysore.

To The Secretary to Govt. ~~to the~~ General and Revenue Department

Dated

Despatched 14th March 1906

Received

Enclosures No. 3

General No. 6772

No. 339

His docket No: Ml 5485 B. 3-05-76 dated 13th Instant.

—"—

Has the honor to forward the marginally noted Law Reports and to request that the same may be returned at a very early date.

I have the honor to be
Sir
Your most obedient
Servant
Registrar

28 Madras

28 Madras (unbound in 12 parts)

31 Calcutta

G.R.S. 28]

File No. 3-05.

Serial No. 34.

Diary No. of letter replied to 2760/3763

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(Bankg)

, *the* 10-5- 1906

-do-

Date of issue

Signed by Mr B K Venkatachar

READ.—

Letter no: 59/Af: B of the 29-12-05, from the D.C. of Hassan, soliciting orders as to whether the sale, as directed, of melhalli-st the blocks of the Hideevar estate, under Regl.n II of 1903, for the realization of the loan made to the late Agrl. Bank at—

ORDER THEREON.—No

Sakleshpur, would convey a clear title, free of all encumbrances to the purchaser & if so, requesting that a declaration to that effect may be ordered to be embodied in the notification for sale.

Order thereon: — over

No 7L 7636-43

SUBJECT

The Ob. entertains a doubt as to whether sales, under Reg. II of 1903, for the realization of loans made ~~of the loans secured~~ to Agrl. Banks, would be ~~a~~ out-right title conveying a clear title to the purchasers in the same way as sales of lands for arrears of revenue due on them. Govt. observe ~~are constrained to point~~ out that there is a difference between the sale of lands for the arrears of land revenue due thereon and that held for any other demand declared to be recoverable as an arrear of land revenue. ~~In the case of the loan due to the Bank~~ Sales under the aforesaid regulation No II of 1903 for the recovery of the loans made from the Agricultural Banks only the right, title & interest of the defaulter ~~who dealt in the transaction with the bank~~ or those whom they represent legally ~~bind by virtue of being managers of the family or by other representative capacity~~ can be sold. If the property was subject to any prior encumbrances before its mortgage ~~loan was taken from~~ to the Bank, the

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

sale ~~some~~ will ~~have to~~ be ~~sold~~ subject to ~~these~~ such encumbrances.

2. As the demand for assessment for the current year ~~could~~ can only be made after April 06, no steps ~~could~~ can now be taken on account of ~~these~~ it.

3. ~~He~~ Govt sanctioned the sales of Nelhalli & 2 other blocks of the Ideavar estate after mature consideration & on the concurrent recommendations of Mr Pilkington & the D.C. they are not therefore prepared to recall the ~~the~~ order, ~~and~~ decline to ~~consider~~ ~~the protest of the Ideavar family~~ ~~against the sale.~~ consider any representations of the Ideavar family against the sale.

may this be printed?

Secretary.

To the D.C. of Hassan returning the draft & the D.C. of Mysore &c:

K.S.
10/06.

11/7/06

Typed
Mr 1
8

G.R.S. 26]

3-05. File No. 7705.
Serial No. 1

Diary No. of letter replied to 363

No. H 7776

General and Revenue Secretariat
(Banking)
, the 11-5-1906

To

The Registrar of the
Chief Court of
Mysore.

Date of issue do

Signed by V K R Venkata
Varadachariar

Sir,

I am directed to return herewith the marginally noted Law Reports ~~received~~ Lent with your letter No: 6772/339 of the 14th March 1906.

I have the
5.5.1906
Secretary

26 Madras.
28 Madras (submd in 12 parts)
31 Calcutta.

K.S
3/5/06.

MK

over.

SUBJECT.

5